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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,469	02/04/2002	Patrick Alexandre	111504	1617

7590  
Oliff & Berridge  
PO Box 19928  
Alexandria, VA 22320

09/10/2003

EXAMINER

THOMPSON, KATHRYN L

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 09/10/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/018,469

Applicant(s)

ALEXANDRE ET AL.

Examiner

Kathryn L. Thompson

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a) because they fail to show three balls (11) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show an inner groove (12) as described in the specification. Instead, the reference number 12 in Figure 1 shows a protrusion. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "opening transverse section" of Claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Art Unit: 3763

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "each blind cavity" of Claims 4 and 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of cavities" of Claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "shock absorbing system" of Claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Art Unit: 3763

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claims 1, 4, 5, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to Claim 1, it is unclear as to how the barrier can both be resistant to the shock wave and also "ensure a good propagation" at the same time. Applicant does not recite what structure of the instant application allows for this to happen nor does Applicant disclose what he means by a "good propagation."

With regard to Claim 4, it is unclear as to what Applicant is claiming by reciting, "has an opening transverse section which is at least equal to each transverse section of this cavity (7)." Examiner interprets the above as meaning that the size of the opening of the cavity is at least equal to all the transverse sections of the cavity. Examiner respectfully disagrees that Applicant's drawings show what is being claimed in Claim 4. The reason being that the cavity in Figure 1 has a frustroconical shape and thus the opening transverse section will never be equal to each and every transverse section of the cavity due to its shape.

Art Unit: 3763

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwebel et al (US 3,802,430, Figures 1 and 2)), Schwebel et al (US 4,089,334, Figures), Schwebel et al (US 4,124,024, Figures 1 and 2), and Bellhouse et al (WO 96/25190, Figure 1). Schwebel et al and Bellhouse et al disclose s needleless syringe comprising a propelling system, a shock wave generator device, a barrier with an upstream and downstream face, the downstream face with at least one blind cavity, and an application guide for applying the syringe to the skin of the patient to be treated.

Due to the numerous drawing and 112 errors, Examiner based her rejection on her best interpretation of the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwebel et al and Bellhouse et al. Schwebel et al and Bellhouse et al disclose all of the claimed

Art Unit: 3763

limitations except that the length of the application guide is between 1 and 8 times the diameter of the fixed barrier and preferably between 2 and 5 times the diameter. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to make the length of the application guide between 1 and 8 times the diameter of the fixed barrier and preferably between 2 and 5 times the diameter because Applicant has not disclosed that making the length of the application guide between 1 and 8 times the diameter of the fixed barrier and preferably between 2 and 5 times the diameter provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the length taught by Schwebel et al and Bellhouse et al or the claimed length of the application guide between 1 and 8 times the diameter of the fixed barrier and preferably between 2 and 5 times the diameter because both lengths perform the same function equally well. Therefore, it would have been an obvious matter of design choice to modify Schwebel et al and Bellhouse et al to obtain the invention as specified in Claim 9.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn L Thompson whose telephone number is 703-305-3286. The examiner can normally be reached on 8:30 AM - 6:00 PM: 1st Friday Off.

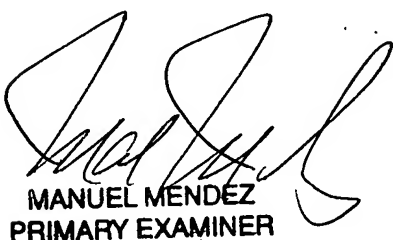
Art Unit: 3763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

KLT

September 6, 2003

  
MANUEL MENDEZ  
PRIMARY EXAMINER